

BEFORE THE OFFICE OF CAMPAIGN FINANCE
DISTRICT OF COLUMBIA BOARD OF ELECTIONS AND ETHICS
FRANK D. REEVES MUNICIPAL BUILDING
2000-14th STREET, N.W., SUITE 420
WASHINGTON, D.C. 20009
(202) 671-0550

IN THE MATTER OF)	DATE: September 23, 2003
)	
Samuel E. Wynkoop)	DOCKET NO.: 03F-127
Member (Former))	
DC Water and Sewer Authority Board of)	
Directors)	
2900 Brock Drive)	
Upper Marlboro, Maryland 20772)	

ORDER

Statement of the Case

This matter came before the Office of Campaign Finance (hereinafter OCF) Office of General Counsel following a determination by its Public Information Records Management Division, that pursuant to the D.C. Code §1-1106.02 (2001 Edition), Samuel E. Wynkoop, Member, DC Water and Sewer Authority Board of Directors (Board), failed to timely file, a Financial Disclosure Statement for calendar year 2002, on or before May 15, 2003 as required by D.C. Official Code §1-1106.02 and also failed to file on or before the OCF sanctioned extended filing deadline of June 19, 2003.

By Notice of Hearing, Statement of Violations and Order of Appearance dated August 8, 2003, OCF ordered Samuel E. Wynkoop (hereinafter respondent), to appear at a scheduled hearing on August 21, 2003 and show cause why he should not be found in violation of the D.C. Campaign Finance Reform and Conflict of Interest Act of 1974, as amended by D.C. Official Code §§1-1101.01 et seq., and fined accordingly.

Summary of Evidence

OCF alleges that the respondent failed to timely file the statutorily required Financial Disclosure Statement for calendar year 2002, on or before June 19, 2003.

On August 21, 2003, respondent, who was out of town until August 25, 2003, was represented by counsel, Wendy A. Hartmann, Esq. Counsel requested that respondent file an affidavit in lieu of a continuance in this matter. By agreement of the parties, the subject affidavit would be filed no later than August 29, 2003. On August 29, 2003, OCF received an affidavit from respondent stating his term on the Board expired September 12, 2002, but he remained a member until a replacement was appointed in April 2003.

IN THE MATTER OF: Samuel E. Wynkoop
Page 2

Respondent asserted that he has timely filed FDS reports with OCF since 1996, while a member of the Board. Respondent further stated he did not believe he was required to file the report as his term expired in September 2002; that he was not a resident of the District of Columbia; and that he had no professional ties to the District or its government. Moreover, respondent stated his failure to file was inadvertent and that he misunderstood the retroactive and continuing nature of the financial disclosure rules. Respondent filed the required FDS on August 20, 2003.

Findings of Fact

Having reviewed the allegations and the record herein, I find:

1. Respondent timely filed a Financial Disclosure Statement for calendar year 2001 on May 15, 2002.
2. Respondent's term on the Board expired on September 12, 2002.
3. Respondent remained on the Board until a replacement was appointed in April 2003.
4. Respondent was required to file a Financial Disclosure Statement with OCF for calendar year 2002, on or before June 19, 2003.
5. Respondent filed the required Financial Disclosure Statement on August 20, 2003.
6. Respondent asserted he did not believe he was required to file an FDS because his term ended in September 2002.
7. Respondent provided a credible explanation for the filing delinquency in that he did not believe he was required to file a final FDS upon separation from government service, and that his failure to file was inadvertent.
8. OCF provided notice to file if the filer ceases to serve prior to May 15th of any year, and within 30 days of any change in information on its Financial Disclosure Statement form.
9. Respondent is currently in compliance with the statute.

Conclusions of Law

Based upon the record provided by OCF, I therefore conclude:

IN THE MATTER OF: Samuel E. Wynkoop
Page 3

1. Respondent violated D.C. Official Code §1-1106.02.
2. The penalty established at D.C. Official Code §1-1103.05(b)(3), and 3 DCMR §§3711.2(aa), 3711.2 and 3711.4 for failure to timely file a Financial Disclosure Statement required by D.C. Official Code §1-1106.02 is a fine of \$50.00 per day for each business day subsequent to the due date.
3. In accordance with D.C. Official Code §1-1103.05(b)(3), the respondent may be fined a maximum of \$2,000.00 for failing to timely file a Financial Disclosure Statement.
4. For good cause shown pursuant to 3 DCMR §3711.6, the Director of Campaign Finance (Director) may modify, rescind, dismiss or suspend any fine.
5. Respondent's explanation for failing to timely file constitutes good cause for suspension of the fine.

Recommendation

In view of the foregoing and information included in the record, I hereby recommend that the Director suspend the imposition of the fine in this matter.

Date

Jean Scott Diggs
Hearing Officer

Concurrence

In view of the foregoing, I hereby concur with the Recommendation.

Date

Kathy S. Williams
General Counsel

ORDER OF THE DIRECTOR

IT IS ORDERED that the fine in this matter be hereby suspended.

Date

Cecily E. Collier-Montgomery
Director

SERVICE OF ORDER

This is to certify that I have served a true copy of the foregoing Order.

Rose Rice
Legal Assistant

NOTICE

Pursuant to 3 DCMR §3711.5 (1999), any fine imposed by the Director shall become effective on the 16th day following the issuance of a decision and order, if the respondent does not request an appeal of this matter. If applicable, within 10 days of the effective date of this order, please make a check or money order payable to the D.C. Treasurer, c/o Office of Campaign Finance, Suite 420, 2000-14th Street, N.W., Washington, D.C. 20009.